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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,603	02/12/2001	Kirt E. Whiteside	WHS.P0018A	8458

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Edward G. Greive  
Renner, Kenner, Greive, Bobak, Taylor & Weber  
Fourth Floor  
First National Tower  
Akron, OH 44308-1456

EXAMINER

RESTIFO, JEFFREY J

ART UNIT

PAPER NUMBER

3619

DATE MAILED: 01/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/780,603	WHITESIDE, KIRT E.
	Examiner	Art Unit
	Jeffrey J. Restifo	3619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 May 2001.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 February 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the phrase "having including" which is redundant and should be corrected.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 7-9, 13, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Happ(2,487,706) and in further view of Hook(5,692,809).

Happ discloses a creeper comprising opposed side rails 24, a pad 32, a plurality of caster assemblies 14 with wheels 12 having a radial surface, as shown in figures 1 and 2. Happ does not disclose the caster wheel as having a contact surface that is 50-70 percent of the wheel width. Hook discloses a wheel comprising a contact surface that is 50-70 percent of the wheel width, and further having a hub "H" comprising an

inner rim 1, an outer rim 7, hemispherical radial supports 3, and an axial bore 5 with bearing 4, as shown in figure 2A. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have given the creeper casters, as taught by Happ, the wheel, as taught by Hook, in order to allow the caster wheels to turn with less force exerted by a user.

With respect to claim 14, the shape of the cross section of the side rails does not produce an unexpected result and is therefore unpatentable, see *In re Dailey*, 149 USPQ 402 (CCPA 1976).

5. Claims 4, 5, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Happ and Hook, as applied to claims 1-3 above, and further in view of Doyle et al.(4,707,880).

Neither Happ nor Hook disclose the wheel assembly as being selected from the recited materials. Doyle et al. does disclose a caster wheel 28 composed of polyurethane, as recited in column 3, lines 28-29. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have composed the caster wheel, as taught by Happ and hook, out of polyurethane, as taught by Doyle et al., in order to give the wheel increased durability and decrease the weight.

6. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Happ, Hook, and Doyle et al., as applied to claims 1-5 above, and further in view of Block(4,034,434).

None of Happ, Hook, or Doyle et al. disclose the wheel as having a hardness of 65-85 Shore durometer type D. Block does disclose a wheel 66 having a hardness of 65/75 Shore D Durometer, as recited in column 3, line 65. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have given the wheel, as taught by Happ, Hook, and Doyle et al., a hardness of 65/75 Shore D Durometer in order to prevent wear on the wheel.

7. Claims 15 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Happ and Hook, as applied to claim 7 above, and further in view of Jarvis(1,882,497).

Neither Happ nor Hook disclose the caster bearing structure. Jarvis does disclose a caster comprising a top bearing bracket 1 with top race 4 for top rolling element 21, a bottom bearing bracket 14 with bottom race 15 for bottom rolling element 22, a wheel assembly 18 between said top and bottom bearing brackets, a king pin 7, and rivet nuts 6, as shown in figure 1. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have given the creeper wheel, as taught by Happ and Hook, the caster bearing assembly, as taught by Jarvis, in order to allow the caster wheel to rotate freely without friction.

### ***Conclusion***

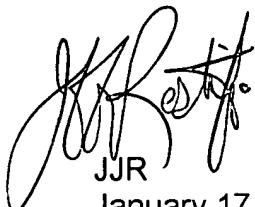
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gruber, Timmer, Honsa, Raza et al., and Pozzobon all disclose wheels of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (703) 305-0579. The examiner can normally be reached on M-F (9:00-5:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2571 for regular communications and (703) 308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Jeffrey J. Restifo  
Examiner  
Art Unit 3619



JJR  
January 17, 2002

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

